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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,988	01/22/2002	Yuko Kubooka	50023-165	7786

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600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER

ALI, SYED J

ART UNIT	PAPER NUMBER
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2195

DATE MAILED: 03/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/050,988		KUBOOKA ET AL.	
	Examiner		Art Unit	
	Syed J. Ali		2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,9,10 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,9,10 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>Oct. 21, 2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendment filed January 5, 2006. Claims 1-5, 9-10, and 15 are presented for examination.
2. The text of those sections of Title 35, U.S. code not included in this office action can be found in a prior office action.

Claim Rejections - 35 USC § 101

3. **Claim 9 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**
4. As per claim 9, the claimed “program product” is non-statutory, as it is not tangibly embodied, therefore failing to produce a “useful, concrete, and tangible result.” *See State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373 (Fed. Cir. 1998). A “program product” is analogous to a “computer program,” which is considered nonstatutory “functional descriptive material” when claimed as functional descriptive material *per se*. *See* MPEP § 2100; *see also In re Warmerdam*, 33 F.3d 1354, 1360 (Fed. Cir. 1994).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-5, 9-10, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakahara et al. (USPN 6,253,225) (hereinafter Nakahara) in view of Horiguchi (USPN 5,513,349).**

7. As per claims 1, 5, and 9-10, Nakahara teaches the invention as claimed, including a task management device provided with a computer readable recording medium having stored thereon an operating system loaded with a program for performing a task management method for executing in parallel a plurality of tasks, each task comprising functions and managed as one execution unit by program execution means (col. 1 lines 13-19), comprising:

task attribute information storage means (col. 11 lines 1-8);

the program execution means for transmitting information on an attribute of a current-executing function, and for querying whether or not to execute an abortion of the task to which the current-executing function belongs (col. 7 line 63 - col. 8 line 22; col. 11 lines 21-31);

task execution determination means, in response to the query from the program execution means, for determining not to abort the current-executing function when it is unsafe to do so (col. 7 line 63 - col. 8 line 10), or for determining to abort the current-executing task when it is safe to do so (col. 8 lines 10-22); and

task attribute recognition means for storing the attribute of the current-executing function in the task attribute information storage means, based on the information on the attribute of the current-executing function transmitted from the program execution means (col. 11 lines 1-8), and for returning the attribute of the current-executing function stored in the task attribute

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information storage means, in response to the query about the attribute of the current-executing function from the task execution determination means (col. 6 lines 17-28; col. 16 lines 12-34).

8. Horiguchi teaches the invention as claimed, including indicating whether it is safe to abort a current-executing function based on a determination of whether the current-executing function is a system library function having been provided by the operating system or other functions (col. 2 lines 21-34; col. 9 lines 3-16).

9. It would have been obvious to a person having ordinary skill in the art to combine Nakahara and Horiguchi based on the nature of the problem to be solved, i.e. safely preempting a process without corrupting or otherwise causing data to become inconsistent (Nakahara, col. 7 lines 34-39; Horiguchi, col. 1 lines 48-51). *See In re Rouffet*, 149 F.3d 1350, 1357 (Fed. Cir. 1998) (“There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art.”).

10. As per claim 2, Nakahara teaches the invention as claimed, including the task management device according to claim 1, wherein said information on the attribute of the current-executing function is a name of the function (col. 11 lines 1-8), and

said task attribute recognition means determines the attribute of the current-executing function based on the name (col. 11 lines 21-31).

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11. As per claim 3, Nakahara teaches the invention as claimed, including the task management device according to claim 1, wherein said task managed as one execution unit is a process (col. 2 lines 58-62).

12. As per claim 4, Nakahara teaches the invention as claimed, including the task management device according to claim 1, wherein said task managed as one execution unit is a thread (col. 2 lines 58-62).

13. As per claim 15, Horiguchi teaches the invention as claimed, including the task management device according to claim 1, wherein when processing goes back to a function calling the current-executing function, the task execution determination means determines whether or not the calling function is the system library function, or the other function (col. 2 lines 21-34; col. 9 lines 3-16).

Response to Arguments

14. **Applicant's arguments with respect to claims 1-5, 9-10, and 15 have been considered but are moot in view of the new grounds of rejection.**

Conclusion

15. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on October 21, 2005 prompted the new grounds of rejection

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presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP §§ 609.04(b), 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed J. Ali whose telephone number is (571) 272-3769. The examiner can normally be reached on Mon-Fri 8-5:30, 2nd Friday off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai T. An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)..



Syed Ali
March 29, 2006



SYED ALI J. IN
SUPERVISORY PATENT EXAMINER
TECHNICAL FIELD